The Middle East:
A Documentary Resource

Series One: Arab-Israeli Relations 1917-70

WO 32/5109

Use of local forces of Palestine and Mesopotamia outside mandated territories

1921

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Number. [redacted] From whom a

E110/37/818

N 177 27/1

70.

121

L of N

KEPT

Shan 1921 SUBJECT.

Provision in British Mandates for use of local forces outside mandated areas

W032/5109

Date of Registry— 28/1/24

Former paper.	Referred to	Date.	Referred to	Date.
	~~D.M.I.~~	18/-		
	~~D.M.O. (by hand)~~	~~23.3~~		
	~~C.I.G.S.~~	29/3/24		
	~~D.M.I.~~	30/3		
	~~D.M.O.~~	1.4		
	~~D.M.O.~~	6.6.		
	~~C.I.G.S.~~	7/-.		
	~~M.I.E.~~	20.6.		
	~~D.M.O.~~	23.6.		
	~~C.I.G.S.~~	27/6.		
	~~D.M.I.~~	27		
	~~M.O. (L of N)~~			
	~~? P.A.~~	~~21/6/24~~		
	R. p.a.	14/8/24		

Referred to	Date.
~~C.I.~~	
~~D.M.O.~~	
~~D.M.I.~~	2/2
~~S.O.S.~~	12/2
~~London~~	14.2
~~D.M.I.~~	19/2
D.M.O.	8.3
~~C.I.G.S.~~	9/3.
~~D.M.I.~~	9/3
~~S.O.S.~~	~~11/3~~
~~C.I.S.~~	7/3

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For authority to p.a.

M.O. (L.N.) 15/8/24

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272952—Wt. 2026/R.P. 5865—100M.—12·20—W. & S. Ltd.—(123).

Register No. 121/L. of N./69 Minute Sheet No. 1.

Letter from F.O. No. E.110/37/88 dated 27th January 1A

Enclosing -

Copy of a letter to Sir Maurice Hankey dated 26th Jan. 1B

Copy of a letter from C.I.D. to Foreign Office, dated 30th Dec. 1C.

Copy of a letter from N.W. Rowell to Brig-Gen. S.H. Wilson, dated 15th Dec. 1D.

Draft of the Mandate for Palestine. 1E.

Draft of the Mandate for Mesopotamia. 1F.

French Draft Mandate for Syria. 1G.

[1177] W11200/H2695 500m 12/16v 15 G & S 99 H16/593

[P.T. Over.

Register No. 12/2nn/69. Minute Sheet No. 2.

1

Ile to. cr a letter to the Secretary of the Cabinet raise the question of the use of the local forces of mandated Territories outside the mandated territories.

S. of S. referred this to the Cabinet in the case of Mesopotamia as C.P. 2203 in 0752/5040.

This letter has a bearing on the question of the Mandates Commission which is to be discussed as part of the agenda at the preliminary meeting of inter-departmental representatives under the chairmanship of the British representative of the L. of N. to be held shortly in February (121/2nn/66).

C1
28/1

K. Ryan

2

D.M.O.

3A is a précis of the situation as regards mandate and F.O. letter 1A. I propose we stick to the present wording. Do you agree?

D.M.L.
1.2.21

W. S. Murphy
Maj Gen.

3

Yes
I agree.
R B Rossiter
CMG

5/2/21

4

S. of S.
Please see 3A. Major Wilde to the F.O.
as in 4A'.

H. Fleck
12/2/21

5
HM
13.2

6
H.F.L.
14/2/21

Register No. 121/2 of N/69 Minute Sheet No. 3

7

Letter from C.O 10156/21 dated 4th March (7A).

8.

C.I.G.S. (through D.M.O.)

Mr Churchill has already agreed with our point of view vide minute 5 in his capacity of S of S for War. However in his capacity of S of S for the Colonies he disagrees, vide 7A.

I think we must adhere to our opinion and hope that S of S. will endorse minute 5.

W S Thwaites
May Gen.

D.M.I.
8.3.21

C.I.G.S.
I agree with D.M.I.

9/3/21

10
Agreed.
H.W
9.3.21

Lee Kindersley
9.3.21.

[P.T. OVER.

11

C.-C. F.S

I prefer the revised opinion of my predecessor to that expressed by him as Sept Ward.

Please reconsider the wording of the F.O. proposal it seems to me that with the consent of the mandatory it matters the troops can be used etc - there is no danger unless the local authorities are out of hand & if they were their troops would be of much value!

16/3.

L.W.S

Register No. 121/L.of N./69 12 Minute Sheet No. 4.

D.M.O.

You should see this before it is referred to the C.I.G.S.

The question is the subject of the wording of Articles 17 and 2 of the Palestine and Mesopotamia Mandates relating to the use of locally raised forces.

Mr. Churchill as S. of S. wished to adhere to the original wording of the mandate but in his new capacity supports the F.O. point of view as does our own new S. of S.

The G.S. wished to adhere to the old wording, but I suppose we shall have to give way now unless we can produce good reasons.

I am inclined to think that the matter is unimportant, and that we could agree with Lord Curzon (para. 4 of his letter 1B) both as regards Mesopotamia and Palestine. The position in Palestine is different from that in Mesopotamia in that there will be no King and the nominal power, as well as the actual power, will remain with a servant of the British Government for a considerable time. If and when Palestine attains independence, the position in that country will be similar to that which we anticipate in Mesopotamia very shortly.

The truth is that so long as these people remain loyal to us, we can do what we like in war; if they become disloyal their armies will be of no value to us.

W. H. Bartholomew.
Brig
for
Major General.

D.M.I.
21.3.21.

See Over.

[1177] W11200/H2695 500m 12/16v 15 G & S 99 H16/593

[P.T. Over.

D.M.I.

I do not think that the question is really one of vital importance, but my idea was that one might as well be hung for a sheep as a lamb. Further, by going for the greater thing we retained the power of compromising for the lesser. I still think that we should maintain our attitude, but leave the door open, for compromise.

22nd March, 1921.

A/D.M.O.

C.I.G.S.

Mr.Rowell of the Canadian Delegation to the Leagueof Nations objects ~~to the~~ working of the provisions in the Mandates for Mesopotamia and Palestine for the use of local forces outside the mandated territories ~~as at present worded~~.
He says :-

"I notice that under both Mandates provision is made for the use of local forces outside the mandated territories. It is true that the consent of the local government is required but having regard to the relations which will necessarily exist between the Mandatory and the local government the requirement of consent does not appear to me to materially change the situation. Is not the use of these forces outside the mandated territories contrary to both the letter and the spirit of the Covenant? If it should be necessary to send local forces outside the territory for the better protection and defence of the territory itself, could not the local government be depended on to take this action without placing this power in the hands of the Mandatory?.

I am sure we all appreciate the very great importance of a good understanding and of hearty co-operation between the two branches of the Anglo-Saxon race. While everyone recognises that there is much uninformed and unintelligent criticism of Great Britain in the United States still the best citizens wish to maintain cordial relations and they are anxious to see that no occasion of misunderstanding should arise. Any action in connection with the form of these mandates or in the administration of the mandatory territories, which the friends of Great Britain in the United States and Canada could not defendwould apart from all other considerations be most undesirable. The charge would be made, and it would be difficult to refute, that the territory was being administered not in the interests of the resident population but in the interest of the mandatory state. Great Britain's greatest asset must be her good name and this is of vastly more value to her than both Mesopotamia and Palestine.

You will remember that I mentioned this matter in London when it came up for discussion. I believe it is so important that I think it desirable to draw the matter once more to your attention. "

The wording of the two mandates on this subject is as follows :-

A. MESOPOTAMIA.

Art. 2. "... The said local forces shall thereafter be responsible to the local authorities subject always to the control to be exercised over these forces by the/

the Mandatory who shall not employ them for other than the above mentioned purposes except with the consent of the Mesopotamian Govt. ..."

B. PALESTINE

Art. 17. " ..... The Administration of Palestine may organise on a voluntary basis the forces necessary for the preservation of peace and order and also for the defence of the country subject, however, to the supervision of the Mandatory, who shall not use them for purposes other than those above specified save with the consent of the Administration of Palestine..."

The Foreign Office suggested that instead of laying down that the Mandatory shall not use the local forces for other than the above purposes except with the consent of the local Government the articles might be amended to the sense that the local Government may only use its forces for other than the above purposes with the consent of the Mandatory. The Foreign Office think that there is no objection to this change if, as they hope, it will allow the British representative on the Council to disarm opposition to the principle that the mandated state should be allowed to use its troops outside its frontiers.

The D.M.I. after you and Mr Churchill had approved, told the Foreign Office that the Army Council wishes to retain the present wording (4a) in this file.)

Mr Churchill in his capacity as Secretary of State for the Colonies has changed his mind and supports the Foreign Office proposal. ~~and~~ Our new S of S does the same vide Minute 11.

The D.M.O's opinion is as follows :- " I do not think the question is really of vital importance but my idea was that one might as well be hung for a sheep as a lamb. Further, by going for the greater thing we retained the power of compromising for the lesser. I still think we should maintain our attitude but leave the door open for compromise "

I am inclined to think that the matter is unimportant and that we can agree with Lord Curzon and the two Secretaries of State, ~~and~~ I can produce no new reasons to influence the Secretary of State who has given his opinion as against that of the General Staff. May I act accordingly ?.

Still.

25.3.21

W S Churchill
May Ch.

D.M.I.

yrs.

H.W.
30 3 21

Register No. 121/Col/N./69. Minute Sheet No. 6.

15.

Letter from the Secretary, Cabinet. 38/K/1. 16.3.21 15A

16

Letter from S.H. Wilson to Col Ker. 22.3.21 16A

Note by Cabinet Secretary on Mandates 16B

~~16A & B~~ attached returned to Cabinet Secretary 1/4/21.

17

D.M.O. see C.O.P.

To see D.M.O. before despatch.

W Thwaites
Maj Gen.

D.C.L.
1.4.21

18.

Letter fr Secretary, Comte of Imp. Defence 1.4.21 18A

19

Letter No. 23710/21, d/- 25/5/21, from Colonial Office. 19.A

C.I.G.S. (through D.M.O.),

The effect of the amendments contained in 19.B can be seen in the original mandates, where tagged at "A" and "B". In view of 17.A, we have nothing further to say.

6th June 1921.

W Thwaites

Major-General,
D.M.I.

[P.T. Over.

263171—Wt. 6394/WP.2107—500 M.—4-18.—W. & S. Ld.—(E. 2854).

21

C.P.3005 - Proposed modifications in draft of the Mandate for Mesopotamia. 21A

22

F.O. propose to send this draft to the French today; so the question is closed.

H.W.

11/6

23

H.W.

Letter from Secretary to Cabinet, no. 38/K/8, dated 16/6/21. enclosing correspondence to & from Air Ministry with reference to "A" mandate. 24a

25

C.I.G.S. (through D.M.O.),

In 24.B the Air Council suggest the substitution of the words "armed forces" for the word "troops" in Article 2 of the Mesopotamian Mandate, and Article 17 of the Palestine Mandate. I think we can agree, and submit 25.A for approval.

In consequence of this amendment the word "local" must be inserted between "such" & "forces" in line 4 Art 2 of "Mesop" Mandate.

23rd June 1921.

W. Thwaites
Major-General,
D.M.I.

26

I agree - a slight additional amendment as pencilled is I think also necessary.

27/6/21

R B Lodge
for CIGS

27

H.W.
27.6.21

28

Letter to the Secretary to the Cabinet dd. 29/6/21. 28A.

29.

Letter from Colonial Office no. 37194/21 16.8.21. 29A.

30.

B

1 b.

29A

Communications on this subject should be addressed to—
THE UNDER SECRETARY OF STATE.
COLONIAL OFFICE,
LONDON, S.W.1,
and the following number quoted :—
37194/21.

RECEIVED
16 AUG 1921

Reference to previous correspondence :

Letter from the Colonial Office of the to of

121

1 of 11

Downing Street,
16 August, 1921.

Sir,

I am directed by the Secretary of State for the Colonies to transmit to you for the information of the Army Council, a *copy of the papers noted below, on the subject of* the draft mandates for Palestine and Mesopotamia.

I am,

Sir,

Your most obedient servant,

G. V. FIDDES.

The Secretary,
War Office.

Date.	*Description.*
1921	
10th. August.	To the Foreign Office.
"	To the Cabinet

Copy also sent to

35233/1921

Downing Street,

10 August 1921.

Sir,

I am directed by Mr. Secretary Churchill to acknowledge the receipt of your letter of the 14th July No.38/K/8, and previous correspondence relative to certain modifications in the wording of Articles 2 and 17 of the draft mandates for Palestine and Mesopotamia respectively, and to inform you that he concurs in the amendments proposed by the Air Ministry, provided that they are accompanied by the further amendments suggested by the War Office in their letter of the 29th July.

I am to take this opportunity of transmitting to you a copy of a letter which he has caused to be addressed to the Foreign Office regarding the communication of the final text of the "A" mandates to the Secretariat General of the League of Nations.

I am, Sir,
Your most obedient Servant,

Lloyd, H. Young

THE SECRETARY,
TO THE CABINET.

37194/1921

Downing Street,

10 August 1921.

Sir,

I am directed by Mr. Secretary Churchill to acknowledge receipt of your letter of the 25th July No: W.7382/1189/98, regarding the draft mandates for Palestine and Mesopotamia, and to state for the information of the Marquess Curzon of Kedleston that, as Mr. Churchill does not contemplate the early necessity for a further revision of the texts of the "A" mandates, he agrees with His Lordship that the final texts thereof, incorporating the recent amendments proposed by the Air Ministry and War Office, should now be placed in the hands of the Secretariat General of the League of Nations on the assumption that the question will come up for discussion before the Council next month.

2. He considers however, that before this is done, Members of Parliament should be given an opportunity

THE UNDER SECRETARY OF STATE,
FOREIGN OFFICE.

opportunity of studying the draft mandate in their final form, and he therefore proposes to present to Parliament forthwith the draft mandates, as at present amended, in order that these may be communicated to the League of Nations with the least possible delay.

3. With regard to paragraph 3 of your letter under reply, I am to state that Mr. Churchill sees no objection to the communication to the French Government of the proposed amendments to the text of the draft mandates for Palestine and Mesopotamia, which form the subject of the enclosure to this Department's letter of the 24th May, No: 23710/21, and subsequent correspondence, ending with your letter of the 12th July No.E.7566/37/88.

4. I am to take this opportunity of transmitting _____ to you a copy of a letter which Mr. Churchill has caused to be addressed to the Secretary of the Cabinet.

I am, Sir,

Your most obedient Servant,

(sgd) H. Young.

28A

121/L. of M./69 (M.I.2).

29th June 1921.

Sir,

I am commanded by the Army Council to acknowledge receipt of Cabinet letter No. 38/K/8, dated 16th June 1921, transmitting a copy of a letter from the Air Ministry, suggesting a modification in the terms of "A" Mandates for Mesopotamia and Palestine.

I am to say that the Council are prepared to accept the amendment suggested in the last line of Article 17 of the Palestine Mandate. As regards Article 2 of the Mesopotamian Mandate, they are prepared to accept the amendment suggested in line 1, provided that a further amendment be accepted in the last sentence of the first paragraph of this Article, the word "local" being inserted, for the sake of clearness, between the first two words, so that it will read "Such local forces", etc.

A copy of this letter has been forwarded to the Air Ministry.

I am,

Sir,

Your obedient servant,

(Sd) E. B. CUBITT.

WO 32/

The Secretary to the Cabinet,
2 Whitehall Gardens, S.W.1.

25A

Draft.

121/L. of M./69 (M.I.2).

Retype CAK

June 1921.

Sir,

I am commanded by the Army Council to acknowledge receipt of Cabinet letter No. 38/K/8, dated 16th June 1921, transmitting a copy of a letter from the Air Ministry, suggesting a modification in the terms of "A" Mandates for Mesopotamia and Palestine.

I am to say that the Council are prepared to accept the amendment suggested in the last line of Article 17 of the Palestine Mandate. As regards Article 2 of the Mesopotamian Mandate, they are prepared to accept the amendment suggested in line 1, provided that a further amendment be accepted in the last sentence (of the first paragraph) of this Article, the word "local" being inserted, for the sake of clearness, between the first two words, so that it will read "Such local forces", etc.

A copy of this letter has been forwarded to the Air Ministry.

I am,

Sir,

Your obedient servant,

The Secretary to the Cabinet,
2 Whitehall Gardens, S.W.1.

24A

Ref: 38/K/1.

16th June 1921.

Sir,

121/1 of Nat. F.X. 35

I have the honour to enclose herewith a copy of a letter received from the Air Ministry with reference to the terms of "A" Mandates under the League of Nations, together with a copy of my reply.

I am to enquire whether the War Office has any objection to the proposed alteration in drafting which the Air Ministry propose.

I am, Sir,

Your obedient Servant,

M. P. A. Hankey

Secretary,
Cabinet.

The Secretary,
War Office,
S.W.1.

COPY.

AIR MINISTRY,

Kingsway,

London, W.C.2.

Ref: S.14409/S.6.

10th June 1921.

Sir,

I am commanded by the Air Council to refer to your communication dated 2nd instant, which was received in the Air Ministry to-day (reference C.P.3005), with reference to the terms of the "A" Mandates under the League of Nations. The Air Council are not familiar with the correspondence which led up to the present drafting of Article 17 of the Palestine Mandate and Article 2 of the Mesopotamian Mandate (see paragraph 6 of Colonial Office letter of May 20th), but it appears to them that the present drafting may not be without ambiguity as regards the right of the Mandatory to maintain Air Forces in the territories in question. The Air Council have no doubt of the intention of the Articles on this point, but in order to obviate the possibility of any objections being raised in the future, they would suggest the substitution of the term "armed forces" for "troops" in the first and last sentences of Article 2 in the draft Mandate for Mesopotamia, and in the last sentence of Article 17 of the draft Mandate for Palestine.

I am, Sir,

(Sd) W.F. Nicholson.

Ref: 30/K/1.

16th June 1921.

Sir,

I have the honour to acknowledge the receipt of your letter dated 10th June (Ref: S.14409/S.6.) in regard to the question of "A" Mandates.

I am in communication with the various Departments with a view to ascertaining whether they have any objection to the alteration in drafting which you propose in regard to the right of the Mandatory to maintain Air Forces in the territories in question.

As soon as I have further information on this point I will communicate with you again.

I am, Sir,

Your obedient Servant,

M.P.A. Hankey (2d)

Secretary,
Cabinet.

The Secretary,
Air Ministry,
Kingsway, W.C.2.

Sir M. J. Creedy 40

21A

THIS DOCUMENT IS THE PROPERTY OF HIS BRITANNIC MAJESTY'S GOVERNMENT.

Confidential.

C.P.3005.

C A B I N E T .

LEAGUE OF NATIONS.

"A" MANDATES.

Note by the Secretary.

L/N. 35.

The accompanying letters from the Colonial Office to the Cabinet Offices and to the Foreign Office summarising certain amendments which it is desired to incorporate into the "A" Mandates, together with copies of the Mandates showing the alterations proposed, are circulated herewith.

It is proposed, unless any objection is raised before June 11th, to invite the Foreign Office to communicate with the French Government with a view to securing their assent to the amendments suggested.

(Sd) M.P.A.HANKEY,

Secretary to the Cabinet.

2, Whitehall Gardens, S.W. 1.,

2nd June, 1921.

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[E 15390/4164/44]

(A.)

PROPOSED MODIFICATIONS IN DRAFT OF THE MANDATE FOR MESOPOTAMIA AS SUBMITTED BY MR. BALFOUR ON DECEMBER 7, 1920, TO THE SECRETARIAT-GENERAL OF THE LEAGUE OF NATIONS FOR THE APPROVAL OF THE COUNCIL OF THE LEAGUE OF NATIONS.

THE COUNCIL OF THE LEAGUE OF NATIONS.

WHEREAS by Article 132 of the Treaty of Peace signed at Sèvres on the tenth day of August, 1920, Turkey renounced in favour of the Principal Allied Powers all rights and title over Mesopotamia, and whereas by Article 94 of the said treaty the High Contracting Parties agreed that Mesopotamia should, in accordance with the fourth paragraph of Article 22 of Part I (Covenant of the League of Nations), be provisionally recognised as an independent State, subject to the rendering of administrative advice and assistance by a Mandatory until such time as it is able to stand alone, and that the determination of the frontiers of Mesopotamia, other than those laid down in the said treaty, and the selection of the Mandatory would be made by the Principal Allied Powers; and

Whereas the Principal Allied Powers have selected His Britannic Majesty as Mandatory for Mesopotamia; and

Whereas the terms of the Mandate in respect of Mesopotamia have been formulated in the following terms and submitted to the Council of the League for approval; and

Whereas His Britannic Majesty has accepted the Mandate in respect of the said territories and undertaken to exercise it on behalf of the League of Nations in conformity with the following provisions;

Hereby approves the terms of the said Mandate as follows:—

ARTICLE 1.

The Mandatory will frame within the shortest possible time, not exceeding three years from the date of the coming into force of this Mandate, an Organic Law for Mesopotamia, *which shall be submitted to the Council of the League of Nations for approval, and shall, as soon as possible, be published by it.* This Organic Law shall be framed in consultation with the native authorities, and shall take account of the rights, interests and wishes of all the populations inhabiting the mandated territory. It shall contain provisions designed to facilitate the progressive development of Mesopotamia as an independent State. Pending the coming into effect of the Organic Law, the administration of Mesopotamia shall be conducted in accordance with the spirit of this Mandate.

ARTICLE 2.

The Mandatory may maintain troops in the territories under his Mandate for the defence of these territories. Until the entry into force of the Organic Law and the re-establishment of public security, he may organise and employ local forces necessary for the maintenance of order and for the defence of these territories. Such forces may only be recruited from the inhabitants of the territories under the Mandate.

The said local forces shall thereafter be responsible to the local authorities, subject always to the control to be exercised over these forces by the Mandatory. ~~who~~ *The Mesopotamian Government* shall not employ them for other than the above-mentioned purposes, except with the consent of the ~~Mesopotamian Government~~ *Mandatory*.

Nothing in this article shall preclude the Mesopotamian Government from contributing to the cost of the maintenance of any forces maintained by the Mandatory in Mesopotamia.

The Mandatory shall be entitled at all times to use the roads, railways, and ports of Mesopotamia for the movement of troops and the carriage of fuel and supplies.

ARTICLE 3.

The Mandatory shall be entrusted with the control of the foreign relations of Mesopotamia, and the right to issue exequaturs to consuls appointed by foreign Powers. It shall also be entitled to afford diplomatic and consular protection to citizens of Mesopotamia when outside its territorial limits.

ARTICLE 4.

The Mandatory shall be responsible for seeing that no Mesopotamian territory shall be ceded or leased to or in any way placed under the control of the Government of any foreign Power.

ARTICLE 5.

The immunities and privileges of foreigners, including the benefits of consular jurisdiction and protection as formerly enjoyed by Capitulation or usage in the Ottoman Empire, are definitely abrogated in Mesopotamia.

ARTICLE 6.

The Mandatory shall be responsible for seeing that the judicial system established in Mesopotamia shall safeguard (*a*) the interests of foreigners; (*b*) the law, and (to the extent deemed expedient) the jurisdiction now existing in Mesopotamia with regard to questions arising out of the religious beliefs of certain communities (such as the laws of Wakf and personal status). In particular the Mandatory agrees that the control and administration of Wakf shall be exercised in accordance with religious law and the dispositions of the founders.

ARTICLE 7.

Pending the making of special extradition agreements with foreign Powers relating to Mesopotamia, the extradition treaties in force between foreign Powers and the Mandatory shall apply to Mesopotamia.

ARTICLE 8.

The Mandatory will ensure to all complete freedom of conscience and the free exercise of all forms of worship, subject only to the maintenance of public order and morals. No discrimination of any kind shall be made between the inhabitants of Mesopotamia on the ground of race, religion or language. Instruction in and through the medium of the native languages of Mesopotamia shall be promoted by the Mandatory.

The right of each community to maintain its own schools for the education of its own members in its own language (while conforming to such educational requirements of a general nature as the Administration may impose) shall not be denied or impaired.

ARTICLE 9.

Nothing in this Mandate shall be construed as conferring upon the Mandatory authority to interfere with the fabric or the management of the sacred shrines, the immunities of which are guaranteed.

ARTICLE 10.

The Mandatory shall be responsible for exercising such supervision over missionary enterprise in Mesopotamia as may be required for the maintenance of public order and good government. Subject to such supervision, no measures shall be taken in Mesopotamia to obstruct or interfere with such enterprise or to discriminate against any missionary on the ground of his religion or nationality.

ARTICLE 11.

The Mandatory must see that there is no discrimination in Mesopotamia against the nationals of any State member of the League of Nations (including companies incorporated under the laws of such State) as compared with the nationals of the Mandatory or of any foreign State in matters concerning taxation, commerce or navigation, the exercise of industries or professions, or in the treatment of ~~ships~~ *merchant vessels* or *civil* aircraft. Similarly, there shall be no discrimination in Mesopotamia against goods originating in or destined for any of the said States, and there shall be freedom of transit under equitable conditions across the mandated area.

Subject as aforesaid the Mesopotamian Government may on the advise of the Mandatory impose such taxes and custom duties as it may consider necessary and take such steps as it may think best to promote the development of the natural resources of the country and to safeguard the interests of the population.

Nothing in this article shall prevent the Mesopotamian Government on the advice of the Mandatory, from concluding a special customs arrangement with any State, the territory of which in 1914 was wholly included in Asiatic Turkey or Arabia.

ARTICLE 12.

The Mandatory will adhere on behalf of Mesopotamia to any general international conventions already existing or that may be concluded hereafter with the approval of the League of Nations respecting the slave traffic, the traffic in arms and ammunition, and the traffic in drugs, or relating to commercial equality, freedom of transit and navigation, laws of aerial navigation, railways and postal, telegraphic and wireless communication, or artistic, literary or industrial property.

ARTICLE 13.

The Mandatory will secure the co-operation of the Mesopotamian Government, so far as social, religious and other conditions may permit, in the execution of any common policy adopted by the League of Nations for preventing and combating disease, including diseases of plants and animals.

ARTICLE 14.

The Mandatory will secure the enactment within twelve months from the coming into force of this Mandate, and will ensure the execution of a Law of Antiquities, based on the contents of Article 421 of Part XIII of the Treaty of Peace with Turkey. This law shall replace the former Ottoman Law of Antiquities, and shall ensure equality of treatment in the matter of archæological research to the nationals of all States, members of the League of Nations.

ARTICLE 15.

Upon the coming into force of the Organic Law an arrangement shall be made between the Mandatory and the Mesopotamian Government for settling the terms on which the latter will take over Public Works and other services of a permanent character, the benefit of which will pass to the Mesopotamian Government. Such arrangement shall be communicated to the Council of the League of Nations.

ARTICLE *16*.

Nothing in this Mandate shall prevent the Mandatory from establishing a system of local autonomy for predominantly Kurdish areas in Mesopotamia as he may consider suitable.

ARTICLE ~~16~~ *17*.

The Mandatory shall make to the Council of the League of Nations an annual report as to the measures taken during the year to carry out the provisions of the Mandate. Copies of all laws and regulations promulgated or issued during the year shall be communicated with the report.

ARTICLE ~~17~~ *18*.

The consent of the Council of the League of Nations is required for any modification of the terms of the present Mandate, provided that in the case of any modification proposed by the Mandatory such consent may be given by a majority of the Council.

ARTICLE 19.

If any dispute whatever should arise between the members of the League of Nations relating to the interpretation or the application of these provisions which cannot be settled by negotiation, this dispute shall be submitted to the Permanent Court of International Justice provided for by Article 14 of the Covenant of the League of Nations.

ARTICLE *20*.

In the event of the termination of the Mandate conferred upon the Mandatory by this Declaration, the Council of the League of Nations shall make such arrangements as may be deemed necessary for securing under the guarantee of the League that the Mesopotamian Government will fully honour the financial obligations legally incurred by the Mandatory during the period of the Mandate, including the rights of public servants to pensions or gratuities.

The present copy shall be deposited in the archives of the League of Nations. Certified copies shall be forwarded by the Secretary-General of the League of Nations to all Powers Signatories of the Treaty of Peace with Turkey.

Made at the day of

0

Printed for the use of the Cabinet.

CONFIDENTIAL.

[E 15390/4164/44]

(B.)

PROPOSED MODIFICATION IN DRAFT OF THE MANDATE FOR PALESTINE AS SUBMITTED BY MR. BALFOUR ON DECEMBER 7, 1920, TO THE SECRETARIAT-GENERAL OF THE LEAGUE OF NATIONS FOR THE APPROVAL OF THE COUNCIL OF THE LEAGUE OF NATIONS.

THE COUNCIL OF THE LEAGUE OF NATIONS.

WHEREAS by Article 132 of the Treaty of Peace signed at Sèvres on the tenth day of August, 1920, Turkey renounced in favour of the Principal Allied Powers all rights and title over Palestine; and

Whereas by Article 95 of the said treaty the High Contracting Parties agreed to entrust, by application of the provisions of Article 22, the Administration of Palestine, within such boundaries as might be determined by the Principal Allied Powers, to a Mandatory to be selected by the said Powers; and

Whereas by the same article the High Contracting Parties further agreed that the Mandatory should be responsible for putting into effect the declaration originally made on November 2, 1917, by the Government of His Britannic Majesty, and adopted by the other Allied Powers, in favour of the establishment in Palestine of a national home for the Jewish people, it being clearly understood that nothing should be done which might prejudice the civil and religious rights of existing non-Jewish communities in Palestine, or the rights and political status enjoyed by Jews in any other country; and

Whereas recognition has thereby been given to the historical connection of the Jewish people with Palestine and to the grounds for reconstituting their National Home in that country; and

Whereas the Principal Allied Powers have selected His Britannic Majesty as the Mandatory for Palestine; and

Whereas the terms of the Mandate in respect of Palestine have been formulated in the following terms and submitted to the Council of the League for approval; and

Whereas His Britannic Majesty has accepted the Mandate in respect of Palestine and undertaken to exercise it on behalf of the League of Nations in conformity with the following provisions;

Hereby approves the terms of the said Mandate as follows :—

ARTICLE 1.

His Britannic Majesty shall have the right to exercise as Mandatory all the powers inherent in the Government of a Sovereign State, save as they may be limited by the terms of the present Mandate.

ARTICLE 2.

The Mandatory shall be responsible for placing the country under such political, administrative and economic conditions as will secure the establishment of the Jewish national home, as laid down in the preamble, and the development of self-governing institutions, and also for safe-guarding the civil and religious rights of all the inhabitants of Palestine, irrespective of race and religion.

ARTICLE 3.

The Mandatory shall encourage the widest measure of self-government for localities consistent with the prevailing conditions.

ARTICLE 4.

An appropriate Jewish agency shall be recognised as a public body for the purpose of advising and co-operating with the Administration of Palestine in such economic, social and other matters as may effect the establishment of the Jewish national home and the interests of the Jewish population in Palestine, and, subject always to the control of the Administration, to assist and take part in the development of the country.

The Zionist organisation, so long as its organisation and constitution are in the opinion of the Mandatory appropriate, shall be recognised as such agency. It shall take steps in consultation with His Britannic Majesty's Government to secure the co-operation of all Jews who are willing to assist in the establishment of the Jewish national home.

ARTICLE 5.

The Mandatory shall be responsible for seeing that no Palestine territory shall be ceded or leased to, or in any way placed under the control of the Government of any foreign Power.

ARTICLE 6.

The Administration of Palestine, while ensuring that the rights and position of other sections of the population are not prejudiced, shall facilitate Jewish immigration under suitable conditions and shall encourage in co-operation with the Jewish agency referred to in Article 4 close settlement by Jews on the land, including State lands and waste lands not required for public purposes.

ARTICLE 7.

The Administration of Palestine will be responsible for enacting a nationality law. There shall be included in this law provisions framed so as to facilitate the acquisition of Palestinian citizenship by Jews who take up their permanent residence in Palestine.

ARTICLE 8.

The immunities and privileges of foreigners, including the benefits of consular jurisdiction and protection as formerly enjoyed by Capitulation or usuage in the Ottoman Empire, are definitely abrogated in Palestine.

ARTICLE 9.

The Mandatory shall be responsible for seeing that the judicial system established in Palestine shall safeguard (*a*) the interests of foreigners; (*b*) the law, and (to the extent deemed expedient) the jurisdiction now existing in Palestine with regard to questions arising out of the religious beliefs of certain communities (such as the laws of Wakf and personal status). In particular the Mandatory agrees that the control and administration of Wakfs shall be exercised in accordance with religious law and the dispositions of the founders.

ARTICLE 10.

Pending the making of special extradition agreements relating to Palestine, the extradition treaties in force between the Mandatory and other foreign Powers shall apply to Palestine.

ARTICLE 11.

The Administration of Palestine shall take all necessary measures to safeguard the interests of the community in connection with the development of the country and, subject to Article 311 of the Treaty of Peace with Turkey, shall have full power to provide for public ownership or control of any of the natural resources of the country or of the public works, services and utilities established or to be established

therein. It shall introduce a land system appropriate to the needs of the country, having regard, among other things, to the desirability of promoting the close settlement and intensive cultivation of the land.

The Administration may arrange with the Jewish agency mentioned in Article 4 to construct or operate, upon fair and equitable terms, any public works, services and utilities, and to develop any of the natural resources of the country, in so far as these matters are not directly undertaken by the Administration. Any such arrangements shall provide that no profits distributed by such agency, directly or indirectly, shall exceed a reasonable rate of interest on the capital, and any further profits shall be utilised by it for the benefit of the country in a manner approved by the Administration.

Article 12.

The Mandatory shall be entrusted with the control of the foreign relations of Palestine, and the right to issue exequators to consuls appointed by foreign Powers. It shall also be entitled to afford diplomatic and consular protection to citizens of Palestine when outside its territorial limits.

Article 13.

All responsibility in connection with the Holy Places and religious buildings or sites in Palestine, including that of preserving existing rights, of securing free access to the Holy Places, religious buildings and sites and the free exercise of worship, while ensuring the requirements of public order and decorum, is assumed by the Mandatory, who will be responsible solely to the League of Nations in all matters connected therewith: provided that nothing in this article shall prevent the Mandatory from entering into such arrangement as he may deem reasonable with the Administration for the purpose of carrying the provisions of this article into effect; and provided also that nothing in this Mandate shall be construed as conferring upon the Mandatory authority to interfere with the fabric or the management of purely Moslem sacred shrines, the immunities of which are guaranteed.

Article 14.

In accordance with Article 95 of the Treaty of Peace with Turkey, the Mandatory undertakes to appoint as soon as possible a special Commission to study and regulate all questions and claims relating to the different religious communities. In the composition of this Commission the religious interests concerned will be taken into account. The chairman of the Commission will be appointed by the Council of the League of Nations. It will be the duty of this Commission to ensure that certain Holy Places, religious buildings or sites regarded with special veneration by the adherents of one particular religion, are entrusted to the permanent control of suitable bodies representing the adherents of the religion concerned. The selection of the Holy Places, religious buildings or sites so to be entrusted, shall be made by the Commission, subject to the approval of the Mandatory.

In all cases dealt with under this article, however, the right and duty of the Mandatory to maintain order and decorum in the place concerned shall not be affected, and the buildings and sites will be subject to the provisions of such laws relating to public monuments as may be enacted in Palestine with the approval of the Mandatory.

The rights of control conferred under this article will be guaranteed by the League of Nations.

Article 15.

The Mandatory will see that complete freedom of conscience and the free exercise of all forms of worship, subject only to the maintenance of public order and morals, is ensured to all. No discrimination of any kind shall be made between the inhabitants of Palestine on the ground of race, religion or language. No person shall be excluded from Palestine on the sole ground of his religious belief.

The right of each community to maintain its own schools for the education of its own members in its own language (while conforming to such educational requirements of a general nature as the Administration may impose) shall not be denied or impaired.

ARTICLE 16.

The Mandatory shall be responsible for exercising such supervision over ~~missionary enterprise~~ *religious or eleemosynary bodies of all faiths* in Palestine as may be required for the maintenance of public order and good government. Subject to such supervision, no measures shall be taken in Palestine to obstruct or interfere with ~~such~~ *the* enterprise *of such bodies* or to discriminate against any ~~missionary~~ *representative or member of them* on the ground of his religion or nationality.

ARTICLE 17.

The Administration of Palestine may organise on a voluntary basis the forces necessary for the preservation of peace and order, and also for the defence of the country, subject, however, to the supervision of the Mandatory, ~~who~~ *but* shall not use them for purposes other than those above specified save with the consent of the ~~Administration of Palestine and~~ *Mandatory*. Except for such purposes, no military, naval or air forces shall be raised or maintained by the Administration of Palestine.

Nothing in this article shall preclude the Administration of Palestine from contributing to the cost of the maintenance of forces maintained by the Mandatory. ~~in Palestine~~.

The Mandatory shall be entitled at all time to use the roads, railways and ports of Palestine for the movement of troops and the carriage of fuel and supplies.

ARTICLE 18.

The Mandatory must see that there is no discrimination in Palestine against the nationals of any of the States members of the League of Nations (including companies incorporated under their laws) as compared with those of the Mandatory or of any foreign State in matters concerning taxation, commerce or navigation, the exercise of industries or professions, or in the treatment of ~~ships or~~ *merchant vessels or civil* aircraft. Similarly, there shall be no discrimination in Palestine against goods originating in or destined for any of the said States, and there shall be freedom of transit under equitable conditions across the mandated area.

Subject as aforesaid and to the other provisions of this Mandate, the Administration of Palestine may on the advice of the Mandatory impose such taxes and customs duties as it may consider necessary, and take such steps as it may think best to promote the development of the natural resources of the country and to safeguard the interests of the population.

Nothing in this article shall prevent the Government of Palestine, on the advice of the Mandatory, from concluding a special customs agreement with any State, the territory of which in 1914 was wholly included in Asiatic Turkey or Arabia.

ARTICLE 19.

The Mandatory will adhere on behalf of the Administration to any general international conventions already existing or that may be concluded hereafter with the approval of the League of Nations respecting the slave traffic, the traffic in arms and ammunition, or the traffic in drugs, or relating to commercial equality, freedom of transit and navigation, aerial navigation and postal, telegraphic and wireless communication or literary, artistic or industrial property.

ARTICLE 20.

The Mandatory will co-operate on behalf of the Administration of Palestine, so far as religious, social and other conditions may permit, in the execution of any common policy adopted by the League of Nations for preventing and combating disease, including diseases of plants and animals.

ARTICLE 21.

The Mandatory will secure, within twelve months from the date of the coming into force of this Mandate, the enactment, and will ensure the execution of a Law of Antiquities based on the provisions of Article 421 of Part XIII of the Treaty of Peace with Turkey. This law shall replace the former Ottoman Law of Antiquities, and shall ensure equality of treatment in the matter of archæological research to the nationals of all States, members of the League of Nations.

ARTICLE 22.

English, Arabic and Hebrew shall be the official languages of Palestine. Any statement or inscriptions in Arabic on stamps or money in Palestine shall be repeated in Hebrew and any statements or inscriptions in Hebrew shall be repeated in Arabic.

ARTICLE 23.

The Administration of Palestine shall recognise the holy days of the respective communities in Palestine as legal days of rest for the members of such communities.

ARTICLE 24.

The Mandatory shall make to the Council of the League of Nations an annual report as to the measures taken during the year to carry out the provisions of the Mandate. Copies of all laws and regulations promulgated or issued during the year shall be communicated with the report.

ARTICLE *25*.

In the territories lying between the Jordan and the eastern boundary of Palestine as ultimately determined, the Mandatory shall be entitled to postpone or withhold application of such provisions of this Mandate as he may consider inapplicable to the existing local conditions, and to make such provision for the administration of the territories as he may consider suitable to those conditions, provided no action shall be taken which is inconsistent with the provisions of Articles 15, 16 and 18.

ARTICLE ~~25~~ *26*.

If any dispute whatever should arise between the members of the League of Nations relating to the interpretation or the application of these provisions which cannot be settled by negotiation, this dispute shall be submitted to the Permanent Court of International Justice provided for by Article 14 of the Covenant of the League of Nations.

ARTICLE ~~26~~ *27*.

The consent of the Council of the League of Nations is required for any modification of the terms of the present Mandate, provided that in the case of any modification proposed by the Mandatory, such consent may be given by a majority of the Council.

ARTICLE ~~27~~ *28*.

In the event of the termination of the Mandate conferred upon the Mandatory by this Declaration, the Council of the League of Nations shall make such arrangements as may be deemed necessary for safeguarding in perpetuity, under guarantee of the League, the rights secured by Articles 13 and 14, and for securing, under the guarantee of the League, that the Government of Palestine will fully honour the financial obligations, legitimately incurred by the Administration of Palestine during the period of the Mandate, *including the rights of public servants to pensions or gratuities.*

The present copy shall be deposited in the archives of the League of Nations and certified copies shall be forwarded by the Secretary-General of the League of Nations to all Powers Signatories of the Treaty of Peace with Turkey.

Made at the day of

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Printed for the use of the Cabinet.

CONFIDENTIAL.

(C.)

[23710/1921]

Colonial Office to Foreign Office.

Sir, *Colonial Office, May* 24, 1921.

I AM directed by Mr. Secretary Churchill to transmit herewith to be laid before Earl Curzon of Kedleston copy of a letter which he has caused to be addressed to Sir Maurice Hankey on the subject of the proposed modifications in the draft Mandates for Palestine and Mesopotamia.

Mr. Churchill presumes that these suggestions will be considered by the Cabinet, but, in view of the fact that the terms of the Mesopotamian Mandate are understood to have been drafted in close consultation with the French Government, he suggests for Lord Curzon's consideration that the proposed modifications should at some stage be communicated to that Government, in order to avoid the appearance of independent action on the part of His Majesty's Government, which might result in opposition being offered by the French representative on the Council of the League of Nations.

I am, &c.

J. E. SHUCKBURGH.

Enclosure.

Colonial Office to Sir M. Hankey.

Sir, *Colonial Office, May* 24, 1921.

I AM directed by Mr. Secretary Churchill to transmit herewith copy of telegraphic correspondence which has passed between this Department and the High Commissioner for Palestine and Mesopotamia on the subject of proposed modifications in the Palestine and Mesopotamian Mandates. Copy of the letter from the Zionist Organisation referred to in this Department telegram No. 46 of the 29th April to Sir H. Samuel is also enclosed.

2. Mr. Churchill has carefully considered the various suggestions which have been put forward from time to time for additions to and modifications in the two Mandates, and has decided to recommend to the Cabinet that when the Mandates are submitted to the Council of the League of Nations at its forthcoming session the British representative on the Council should be instructed to make the following proposals :—

3. *Palestine Mandate.*—Article 16 should be reworded as follows :—

"The Mandatory shall be responsible for exercising such supervision over religious or eleemosynary bodies of all faiths in Palestine as may be required for the maintenance of public order and good government. Subject to such supervision no measures shall be taken in Palestine to obstruct or interfere with the enterprise of such bodies or to discriminate against any representative or member of them on the ground of his religion or nationality."

Article 17 should be reworded as follows :—

"The Administration of Palestine may organise on a voluntary basis the forces necessary for the preservation of peace and order, and also for the defence of the country, subject, however, to the supervision of the Mandatory, but shall not use them for purposes other than those above specified, save with the consent of the Mandatory. Except for such purposes no military, naval or air forces shall be raised or maintained by the Administration of Palestine.

"Nothing in this article shall preclude the Administration of Palestine from contributing to the cost of the maintenance of forces maintained by the Mandatory.

"The Mandatory shall be entitled at all times to use the roads, railways and ports of Palestine for the movement of troops and the carriage of fuel and supplies."

Article 18. For the sentence "or in the treatment of ships or aircraft" substitute :—

"Or in the treatment of merchant vessels or civil aircraft."

New Article 25 to be inserted after Article 24 :—

"In the territories lying between the Jordan and the eastern boundary of Palestine as ultimately determined the Mandatory shall be entitled to postpone or withhold application of such provisions of this Mandate as he may consider inapplicable to the existing local conditions and to make such provision for the administration of the territories as he may consider suitable to those conditions, provided no action shall be taken which is inconsistent with the provisions of Articles 15, 16 and 18."

Articles 25, 26 and 27 to be renumbered Articles 26, 27 and 28.

The following words to be added at the end of Article 28 (formerly Article 27), after the words "during the period of the Mandate" :—

"Including the rights of public servants to pensions or gratuities."

4. *Mesopotamian Mandate.*—Article 1 to be reworded as follows :—

"The Mandatory ~~will~~ frame within the shortest possible time, not exceeding three years from the date of the coming into force of this Mandate, an Organic Law for Mesopotamia which shall be submitted to the Council of the League of Nations for approval, and shall, as soon as possible, be published by it. This Organic Law shall be framed in consultation with the native authorities and shall take account of the rights, interests and wishes of all the populations inhabiting the mandated territory. It shall contain provisions designed to facilitate the progressive development of Mesopotamia as an independent State. Pending the coming into effect of the Organic Law the administration of Mesopotamia shall be conducted in accordance with the spirit of this Mandate."

Article 2 to be reworded as follows :—

"The Mandatory may maintain troops in the territories under his Mandate for the defence of these territories. Until the entry into force of the Organic Law and the re-establishment of public security he may organise and employ local forces necessary for the maintenance of order and for the defence of these territories. Such forces may only be recruited from the inhabitants of the territories under the Mandate.

"The said local forces shall thereafter be responsible to the local authorities, subject always to the control to be exercised over these forces by the Mandatory. The Mesopotamian Government shall not employ them for other than the above-mentioned purposes except with the consent of the Mandatory.

"Nothing in this article shall preclude the Mesopotamian Government from contributing to the cost of the maintenance of any forces maintained by the Mandatory in Mesopotamia.

"The Mandatory shall be entitled at all times to use the roads, railways and ports of Mesopotamia for the movement of troops and the carriage of fuel and supplies."

Article 11. For the sentence "or in the treatment of ships or aircraft" substitute :—

"Or in the treatment of merchant vessels or civil aircraft."

New Article 16 to be inserted after Article 15 :—

"Nothing in this Mandate shall prevent the Mandatory from establishing a system of local autonomy for predominantly Kurdish areas in Mesopotamia as he may consider suitable."

Articles 16 and 17 to be renumbered 17 and 18.
Insert new Article 19 :—

"In the event of the termination of the Mandate conferred upon the Mandatory by this declaration the Council of the League of Nations shall make such arrangements as may be deemed necessary for securing under the guarantee of the League that the Mesopotamian Government will fully honour the financial obligations legally incurred by the Mandatory during the period of the Mandate, including the rights of public servants to pensions or gratuities."

5. I am to explain that the insertion of the additional clause now proposed for Article 1 of the Mesopotamian Mandate was suggested to Mr. Churchill by the Secretary-General of the League of Nations, who was strongly of opinion that the inclusion of a provision that the Organic Law should be submitted to the Council of the League for approval would be of great value in counteracting such opposition as he anticipated might otherwise be offered to the terms of the Mandate as originally drafted.

6. The rewording of Articles 17 of the Palestine Mandate and 2 of the Mesopotamian Mandate was concurred in by the Army Council in their letter of the 2nd April, 1921, addressed to this Department, of which a copy was transmitted to you by the War Office, and a further copy of which is enclosed for convenience of reference, with copy of the Colonial Office letter No. 10156 of the 4th March, to which it was a reply.

7. The substitution of the words "merchant vessels or civil aircraft" for the words "ships or aircraft" in Articles 18 of the Palestine Mandate and 11 of the Mesopotamian Mandate was finally concurred in by this Department letter of the 5th April to the Foreign Office, in reply to Foreign Office letter of the 30th March, copies of which are enclosed.

8. The insertion of the clauses providing for an administrative distinction to be drawn between Trans-Jordania and Kurdistan on the one hand and Palestine and Mesopotamia respectively on the other were drafted at an Inter-Departmental Conference of legal advisers called in consequence of a telegram sent by Mr. Churchill from Cairo on the 21st March, of which copy is enclosed, that relating to Kurdistan having been slightly redrafted in consequence of Sir P. Cox's telegram No. 44 of the 22nd April. Mr. Churchill fully recognises the objections to including these two Articles at this late stage, but is led to recommend it in view of the possibility of legal objections being raised by other parties in the future if the terms of the two Mandates as originally drafted were not strictly applied to the two territories in question.

9. The addition to Article 27 (renumbered 28) of the Palestine Mandate and the insertion of a new Article 18 in the Mesopotamian Mandate is recommended on the advice of the High Commissioners for Palestine and Mesopotamia, who are experiencing considerable difficulties in obtaining officers for service in these two countries and the impossibility, as matters now stand, of offering them secure terms of employment.

10. The rewording of Article 16 of the Palestine Mandate is recommended in order to meet the point raised by the Zionist Organisation in paragraph 4 of the memorandum enclosed in their letter to Sir Herbert Samuel of the 7th March, in which they objected to the use of the word "missionary." Mr. Churchill supports their objections to the use of this word, though he does not recommend that any of the other suggestions of the Organisation should be adopted.

11. Mr. Churchill understands from private conversation with the Secretary-General of the League of Nations that the insertion of these provisions is unlikely to cause any difficulties when the Mandates come up for discussion.

A copy of this letter has been sent to the Foreign Office with a covering letter, of which a copy is enclosed. Mr. Churchill presumes that you will decide in direct communication with the Foreign Office at what stage, if at all, the proposed modifications in the Mesopotamian Mandate should be discussed with the French Government.

I am, &c.
J. E. SHUCKBURGH.

G.1.M.C.

B

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19A.

Communications on this subject should be addressed to—
THE UNDER SECRETARY OF STATE,
COLONIAL OFFICE,
LONDON, S.W.1,
and the following number quoted :—
23710/21

WAR OFFICE
26 MAY
REGISTERED

Reference to previous correspondence :

Letter from the Colonial Office of the *to* *of*

Downing Street,

25 May. 1921.

121

L/N

Sir,

I am directed by the Secretary of State for the Colonies to transmit to you for the information of the Army Council, a copy of the paper noted below, on the subject of the proposed modification in the Palestine & Mesopotamian Mandates.

I am,

Sir,

Your most obedient servant,

G. V. FIDDES.

The Secretary,
War Office

Date.	*Description.*
24 th. May	To Sir M. Hankey (with enclosure)

Copy also sent to Foreign Office, India Office, Board of Trade Admiralty, Air Ministry & Treasury

19.B.

23Y10/21

DOWNING STREET,

24 May, 1921.

Sir,

I am directed by Mr. Secretary Churchill to transmit herewith copy of telegraphic correspondence which has passed between this Department and the High Commissioners for Palestine and Mesopotamia on the subject of proposed modifications in the Palestine and Mesopotamian mandates. Copy of the letter from the Zionist Organisation referred to in this Department telegram No.46 of the 29th April to Sir H.Samuel is also enclosed.

Schedule.

2. Mr. Churchill has carefully considered the various suggestions which have been put forward from time to time for additions to and modifications in the two mandates and has decided to recommend to the Cabinet that when the mandates are submitted to the Council of the League of Nations at its forthcoming session the British representative on the Council should be instructed to make the following proposals.

3. Palestine Mandate.

Article 16 should be reworded as follows:-

"The Mandatory shall be responsible for exercising such supervision over religious or eleemosynary bodies of all faiths in Palestine as may be required for the maintenance of public order and good government. Subject to such supervision no measures shall be taken in Palestine to obstruct or interfere with the enterprise of such bodies or to discriminate against any representative or member of them on the ground of his religion or nationality".

Article 17 should be reworded as follows:-

"The Administration of Palestine may organise on a voluntary basis the forces necessary for the preservation of peace and order, and also for the defence of the country, subject, however to the supervision of the Mandatory, but shall not use them for purposes other than those above specified save with the consent of the Mandatory. Except for such purposes no military, naval or air forces shall be raised or maintained by the Administration of Palestine.

Nothing in this Article shall preclude the Administration of Palestine from contributing to the cost of the maintenance of forces maintained by the Mandatory.

SIR MAURICE HANKEY.

The

...under the Mandate. Any valid local forces shall thereafter be

The Mandatory shall be entitled at all times to use the roads, railways and ports of Palestine for the movement of troops and the carriage of fuel and supplies".

Article 18. For the sentence "or in the treatment of ships or aircraft" substitute:-

"Or in the treatment of merchant vessels or civil aircraft".

New Article 25 to be inserted after Article 24:

"In the territories lying between the Jordan and the eastern boundary of Palestine as ultimately determined, the Mandatory shall be entitled to postpone or withhold application of such provisions of this mandate as he may consider inapplicable to the existing local conditions and to make such provision for the administration of the territories as he may consider suitable to those conditions provided no action shall be taken which is inconsistent with the provisions of Articles 15,16 and 18".

Articles 25, 26, and 27 to be renumbered Articles 26, 27 and 28.

The following words to be added at the end of Article 28 (formerly Article 27), after the words "during the period of the Mandate".

"including the rights of public servants to pensions or gratuities".

4. Mesopotamian Mandate.

Article 1 to be reworded as follows:-

"The Mandatory will frame within the shortest possible time, not exceeding three years from the date of the coming into force of this Mandate, an Organic Law for Mesopotamia which shall be submitted to the Council of the League of Nations for approval and shall as soon as possible be published by it. This Organic Law shall be framed in consultation with the native authorities and shall take account of the rights, interests and wishes of all the populations inhabiting the mandated territory. It shall contain provisions designed to facilitate the progressive development of Mesopotamia as an independent State. Pending the coming into effect of the organic Law the administration of Mesopotamia shall be conducted in accordance with the spirit of this Mandate".

Article 2 to be reworded as follows:-

"The Mandatory may maintain troops in the territories under his Mandate for the defence of these territories. Until the entry into force of the Organic Law and the re-establishment of public security, he may organise and employ local forces necessary for the maintenance of order and for the defence of these territories. Such forces may only be recruited from the inhabitants of the territories under

under the Mandate.

The said local forces shall thereafter be responsible to the local authorities subject always to the control to be exercised over these forces by the Mandatory. The Mesopotamian Government shall not employ them for other than the above mentioned purposes except with the consent of the Mandatory.

Nothing in this Article shall preclude the Mesopotamian Government from contributing to the cost of the maintenance of any forces maintained by the Mandatory in Mesopotamia.

The Mandatory shall be entitled at all times to use the roads railways and ports of Mesopotamia for the movement of troops and the carriage of fuel and supplies".

Article 11. For the sentence "or in the treatment of ships or aircraft" substitute

"or in the treatment of merchant vessels or civil aircraft".

New Article 16 to be inserted after Article 15:-

"Nothing in this Mandate shall prevent the Mandatory from establishing a system of local autonomy for predominantly Kurdish areas in Mesopotamia as he may consider suitable".

Articles 16 and 17 to be renumbered 17 and 18.

Insert new Article 19.

"In the event of the termination of the Mandate conferred upon the Mandatory by this Declaration the Council of the League of Nations shall make such arrangements as may be deemed necessary for securing under the guarantee of the League that the Mesopotamian Government will fully honour the financial obligations legally incurred by the Mandatory during the period of the Mandate, including the rights of public servants to pensions or gratuities".

5. I am to explain that the insertion of the additional clause now proposed for Article 1 of the Mesopotamian Mandate was suggested to Mr. Churchill by the Secretary General of the League of Nations, who was strongly of opinion that the inclusion of a provision that the Organic Law should be submitted to the Council of the League for approval would be of great value in counteracting such opposition as he anticipated might otherwise be offered to the terms of the Mandate as originally drafted.

6. The rewording of Articles 17 of the Palestine Mandate and 2 of the Mesopotamian Mandate was concurred in by the Army Council in their letter No.121/L of M/69 (M.I.2) of the 2nd April 1921, addressed to this Department

Department, of which a copy was transmitted to you by the War Office, and a further copy of which is enclosed for convenience of reference, with copy of the Colonial Office letter No.10156 of the 4th March to which it was a reply.

7. The substitution of the words "merchant vessels or civil aircraft" for the words"ships or aircraft" in Articles 18 of the Palestine Mandate and 11 of the Mesopotamian Mandate was finally concurred in by this Department letter No.15367 of the 6th April to the Foreign Office, in reply to Foreign Office letter No.E. 3720/37/88 of the 30th March, copies of which are enclosed.

8. The insertion of the clauses providing for an administrative distinction to be drawn between Trans-Jordania and Kurdistan on the one hand and Palestine and Mesopotamia respectively on the other were drafted at an Inter-Departmental Conference of legal advisers called in consequence of a telegram sent by Mr.Churchill from Cairo on the 21st March, of which copy is enclosed, that relating to Kurdistan having been slightly re-drafted in consequence of Sir P.Cox's telegram No.44 of the 22nd April. Mr.Churchill fully recognises the objections to including these two Articles at this late stage, but is led to recommend it in view of the possibility of legal objections being raised by other parties in the future if the terms of the two Mandates as originally drafted were not strictly applied to the two territories in question.

9. The addition to Article 27 (re-numbered 28) of the Palestine Mandate and the insertion of a new Article 18 in the Mesopotamian Mandate is recommended on the advice of the High Commissioners for Palestine and

Mesopotamia

Mesopotamia who are experiencing considerable difficulties in obtaining officers for service in these two countries and the impossibility, as matters now stand, of offering them secure terms of employment.

10. The rewording of Article 16 of the Palestine Mandate is recommended in order to meet the point raised by the Zionist Organisation in paragraph 4 of the Memorandum enclosed in their letter to Sir Herbert Samuel of the 7th March in which they objected to the use of the word "missionary." Mr.Churchill supports their objections to the use of this word, though he does not recommend that any of the other suggestions of the Organisation should be adopted.

11. Mr.Churchill understands from private conversation with the Secretary General of the League of Nations that the insertion of these provisions is unlikely to cause any difficulties when the Mandates come up for discussion.

A copy of this letter has been sent to the Foreign Office, with a covering letter of which a copy is enclosed. Mr.Churchill presumes that you will decide in direct communication with the Foreign Office at what stage, if at all, the proposed modifications in the Mesopotamian Mandate should be discussed with the French Government.

I am,

Sir,

Your obedient servant,

(Signed) J. E. SHUCKBURGH

S C H E D U L E.

Telegram from Mr. Churchill to Sir P. Cox. No.XY1, 2nd April. C

Telegram from the Secretary of State for the Colonies to the High Commissioner for Mesopotamia, No.21, 18th April. D

Telegram from the High Commissioner for Mesopotamia to the Secretary of State for the Colonies, No.44, 20th April. E

Telegram from the High Commissioner for Palestine to the Secretary of State for the Colonies, No.77, 12th April. F.

Telegram from the High Commissioner for Palestine to the Secretary of State for the Colonies, No.130, 5th May. G

Telegram from the High Commissioner for Mesopotamia to the Secretary of State for the Colonies, No.98, 11th May. H

Telegram from the Secretary of State for the Colonies to the High Commissioner for Mesopotamia, No.93, 14th May. K

Telegram from the High Commissioner for Mesopotamia to the Secretary of State for the Colonies, No.110, 16th May. L

From the Zionist Organisation, 7th March. M.

Telegram from Mr. Churchill at Cairo, No.YZ86, 21st March. N.

From Foreign Office, March 30th, and enclosures.

To Foreign Office, 5th April.

To War Office, 4th March.

From War Office, 2nd April.

To Foreign Office, 24 May.

P Q R S T.

19.C.D.

PARAPHRASE TELEGRAM from Mr. Churchill to Sir P. Cox. Muscat. Repeated High Commissioner Baghdad.

No.xy 1. dated 2nd April.

The Legal Advisers to Foreign Office and Colonial Office have recommended in reply to my enquiry addressed to them from Cairo that, although it is certainly undesirable that M.M.G. should themselves propose alterations of mandates it would be wise nevertheless that in this case it should be proposed to the Council of the League of Nations, when the time comes for that body to consider the "A" mandates, a clause should be inserted after Article 15 of the Mesopotamia mandate Begins:- "Nothing in this mandate shall prevent mandatory from establishing an autonomous system of administration for predominantly Kurdish areas in Northern portion of Mesopotamia as he may consider suitable." Ends.

Do you see any objection? I will not have this clause inserted unless absolutely necessary.

19.D.

PARAPHRASE TELEGRAM from the Secretary of State for the Colonies to the High Commissioner for Mesopotamia.

(Sent 5.30 p.m. 18th April, 1921.)

No.21

My telegram sent from Cairo 2nd April No.XY] regarding insertion of clause after Article 15 Mesopotamia mandate should be glad of ~~an~~ early reply.

CHURCHILL.

19.E. 1.

PARAPHRASE TELEGRAM from the High Commissioner for Mesopotamia to the Secretary of State for the Colonies.

(Dated 20th April)

(Received Colonial Office 6.35 p.m. 22nd April,1921.)

No.44. Your telegram No.21 of April 18th.

Delay in replying is regretted. I agree that unless it proves absolutely necessary to so do clause should not be inserted. Following modifications are recommended. (1) Substitute for "autonomous system", "System of local autonomy" (2) Words "northern portion of" should be omitted Iraq Public feeling will be strongly opposed to Kurdish districts being cut of conception of Iraq. It is believed on the other hand that their being given a very wide measure of local autonomy with British and Kurds and not Arab officials and special supervision by High Commissioner will not provoke much opposition. I am endeavouring at the moment to find in consultation with local notables and political officers a formula which will satisfy susceptibilities of Iraq government and aspirations of Kurds.

COX.

19 F 1.

IMMEDIATE.

CONFIDENTIAL.

PARAPHRASE TELEGRAM from the High Commissioner of Palestine to the Secretary of State for the Colonies. (Received Colonial Office 8.48 a.m. 13th April, 1921.)

No.77 of 12th April.

Mandate. Your telegrams April 10th. Terms of draft clauses are concurred in by me.

SAMUEL.

19 G. 1

PARAPHRASE TELEGRAM from the High Commissioner for Palestine to the Secretary of State for the Colonies.
(Received Colonial Office 10.50 p.m. 5th May, 1921.)

(R.) ----------

No.130 of 5th May

Your telegram No.46. As to first five paragraphs I concur. Also as to six but wording which ZIONISTS suggest might be held to discriminate against American missionaries who do important work in Palestine.

SAMUEL.

19.H 7.

PARAPHRASE telegram from the High Commissioner for Mesopotamia to the Secretary of State for the Colonies.

Dated 11th May

(Received Colonial Office 11.15 p.m. 12th May 1921.)

No.98 Your telegram of 29th April No.56. I concur in all alterations which you propose.

Final expression of opinion has not yet been received from all Kurdish districts but I (?anticipate) that given a moderate degree of local autonomy Mosul Kurds and Arbil will elect to remain under Iraq but that Sulaimaniyah on the other hand will elect independence. If therefore local independence cannot safely be given without clause I think clause should be inserted. The only other alteration (sic) I would suggest is exclusion of third sentence of article (2). With frontier as at present drawn (?bulk of) Assyrians will be ineligible for enlistment while question of nationality of Kurds who while originals of Persia are domiciled in Iraq and enlisted in levies might give trouble also.

COX.

19.K 1.

Cairo

No.23710/1921

Paraphrase telegram from the Secretary of State for the Colonies to the High Commissioner for Mesopotamia.

(Sent 5.15 p.m 14th May. 1921)

No.93.

Referring to your telegram No.98 dated April 29th Mandate. Do you see any objection to submission to League of Nations of Mesopotamian Organic Law for approval before it comes into force. Secretary General to League assures me that insertion in Article 1 of the Mandate of a provision to this effect will increase very greatly prospect of mandate being approved at the June Session of the Council.

CHURCHILL.

19.14 M.

PARAPHRASE TELEGRAM from the High Commissioner for Mesopotamia to the Secretary of State for the Colonies.

Dated 16th May

(Received Colonial Office 7.5 a.m. 17th May, 1921.)

No.110. Your telegram No.93 of May 14th. No objection to submission of Organic Law to League of Nations.

OK.

COPY.

19.M.

THE ZIONIST ORGANISATION,

77, Great Russell Street,

London, W.C.1.

7th March, 1921.

His Excellency,
The High Commissioner,
Jerusalem.

Dear Sir Herbert,

During the last few weeks some changes have taken place here that may prove of great importance for Palestine. The handing over of the responsibility for Palestine to a new Committee under the aegis of the Colonial Office terminates our direct connection with the Foreign Office and marks the beginning of a new period in which it will be our aim to be in contact with the new authorities, as circumstances shall require, and in keeping with the line we have hitherto followed for the solution of various questions, so far as is agreeable to His Majesty's Government. The fact that the new Minister for the Colonies, Mr. Churchill, has undertaken a journey to the Near East in order to study conditions on the spot, shows that the Government is giving serious attention to the safeguarding of the newly established arrangements in that part of the world, and to the clearing away of all obstacles that may stand in the way of a complete success in this great task.

It is unnecessary to emphasise the fact that we are most sincerely convinced that the new authorities set up by the Imperial Government, just as the former ones, will in the settlement of Near Eastern questions be

inspired

inspired by the same wish to give us vigorous assistance in rebuilding Palestine as the "National Home for the Jewish People". Mr. Churchill's journey fills us with great hope and we acclaim the idea of the new minister, personally to inform himself about all the questions with which he will be concerned in the discharge of his high office, before taking over his duties. We are therefore assured that a full discussion with you, the highest representative of His Majesty's Government in Palestine, and possibly also Mr. Churchill's visit to that country, will form an excellent basis for the policy of the newly established committee with regard to the welfare of Palestine. We, the Zionist Organisation have the firm belief which we have impressed upon the Jewish people all over the world, in the steadfastness and continuance of that wise and far-sighted policy of Great Britain that found its expression in Mr. Balfour's declaration, in the San Remo decision, and in the British Mandate for Palestine, and upon this policy, as well as upon the determination of the Jewish people for work and sacrifice, we build our whole future.

Having set forth these general facts, we take the liberty of drawing your attention to several points that give us some cause for apprehension. They are as follows:

I. <u>The Registration of the Mandate under the League of Nations</u>. The provisional status of Palestine renders an already difficult task still more difficult. Hostile agitation takes advantage of this position to carry on all sorts of intrigues; the elements who make it their business to stir up and confuse the mind of the

masses,

masses, exploit every opportunity to impress the credulous populace with the belief that it is possible to upset the British Mandate and the Jewish National Home through the dissemination of absurd calumnies. Normal conditions cannot be established, enterprise stagnates, and a feeling of uncertainty prevents the laying of secure foundations for the country's welfare. This long delay is intolerable to Zionism which has to find the means for the rebuilding of Palestine. It was hoped after the Peace Conference that the matter was settled, but we had to wait till the San Remo decisions. The result of these decisions; and especially after your appointment as High Commissioner, there seemed no doubt that Palestine thenceforward would enter upon a period of peaceful and constructive development, but this was not to be, because we had to wait for the first session of the League of Nations last December even then the registration of the Mandate did not take place, and was to have been executed at the present session of the League in Paris. Mr. Balfour took a vigorous stand in the matter, but now we find that the Mandate can be registered only at the next session. Four or five months ago the financial position was favourable in the countries upon which we are dependent and the registration of the Mandate would be celebrated and would easily bring in considerable amounts of money for the needs of Palestine; but owing to the delay we now find ourselves in a period of financial crisis in which our work will prove much more difficult. We are nevertheless convinced that we will succeed in commanding the sacrifices that our task requires, but the formality of registration under the League should not be delayed any longer. These delays injure in equal measure both the interests of the Mandate and the work of building up Palestine.

seemed to be the final word in this question;

Accordingly

Accordingly we earnestly request you, Sir, to further in every way the registration of the Mandate with the League of Nations as soon as may be.

II. <u>The conditions of the Mandate</u>. Should any alteration be suggested with reference to any clauses of the Mandate, we hold it our duty to lay before you a clear statement of our attitude on these questions. We have done this several times both in interviews and in correspondence in the course of our negotiations with the Foreign Office, and we beg to submit the enclosed copies of our letters for your perusal. The final text of the Mandate has not been communicated to us officially; but without our knowledge the press has received and published a copy of it. For some years, that is, ever since the question of the Mandate arose, we have resisted all the numerous questions addressed to us and exercised the fullest discretion in the consciousness of our responsibilities, and also in the hope of securing more favourable terms on many points, in spite of the pressure brought to bear upon us by a considerable section of our Organisation; only our most trusted collaborators had a knowledge of the contents of that document, and were promised our best efforts in securing those amendments which we equally with them considered essential. This we have done to the best of our knowledge and intentions.

In consequence of the publication of the Mandate the situation has changed entirely. Jewish public opinion throughout the world which has awaited for years the appearance of this epoch-making document, has naturally at once set itself carefully to study each of its clauses, and it was inevitable that this instrument should have become the subject of warm discussion, and is likely to

become

become still more so. For us this attitude is of the greatest importance. The continued and even increasing enthusiasm of our people for Palestine is an indispensable condition for the practical success of Zionism; we demand the heaviest sacrifices - rich people even in the most distant countries are being invited to contribute a tenth of their possessions, while poor people give comparatively still more. And it is not only money that it gives; some devote their whole energies, and would even give their lives for the cause. The Zionist ideal is the whole source of their inspiration.

8 How has Jewish public opinion received the Mandate? With regard to the Mandate as a whole, the idea of the National Home, the exposition of historical motives in the preamble and the giving of the Mandate to Great Britain the reception was full of joy and hope; yet some of its provisions caused disappointment and apprehension. This is also our own point of view. Those details which are now being criticised by Jewish public opinion, were most emphatically opposed at the time by us, and those amendments which are now being demanded, we also have claimed repeatedly and urgently.

We therefore beg you, Sir, that in the event of any changes being proposed in the latest edition of the Mandate, our repeated proposals which you will find enclosed herewith may receive considerate attention. All our suggestions are dictated by the desire to bring the work of our National Home to a successful issue by means of law and order, and in keeping with the peaceful and humanitarian aims of Great Britain. We shall be pleased to give any necessary information that may be desired.

Yours very sincerely,

(Signed) Ch. WEIZMANN.

NOTES ON DRAFT MANDATE FOR PALESTINE.

(FINAL VERSION).

1. ARTICLE 4.

The "Jewish Agency" is described as "a public body for the purpose of advising and co-operating with the Administration of Palestine in such economic, social, and other matters as may affect the establishment of the Jewish national home and the interests of the Jewish population in Palestine, etc."

In the draft of December 11th, 1919 (Article 5) the Jewish Agency was given power to advise and co-operate with the Government in all administrative, economic, social, and other matters, etc.

The term "Administration of Palestine" was first substituted for the term "Government" in the draft of March 15th, 1920.

It is apparent that the Article, in its present form, does not give the Jewish Agency any locus standi vis-a-vis H.M. Government.

It is therefore submitted that the wording of this Article should be modified as follows:

"For the purpose of advising and co-operating with His Britannic Majesty's Government and the Administration of Palestine".

Among "such economic, social and other matters as may affect the establishment of the Jewish national home, etc." will necessarily be many

many on which a decision will have to be taken by the Home Government or will, in any event, have to await its directions. It is clearly desirable that in such cases the Jewish Agency should have an assured opportunity of being heard before action is taken.

2. ARTICLE 4. (Paragraph 2)

"The Zionist Organisation, so long as its organisation and constitution are, in the opinion of the Mandatory, appropriate, shall be recognised as such Agency."

The words underlined were first inserted in the draft of October, 1920, on which the Zionist Organisation was not afforded an opportunity of submitting its observations. They will, it is feared, tend to be misconstrued, more especially abroad. While it is not suggested that the right to withdraw recognition is likely, in fact, to be arbitrarily exercised, it may be misinterpreted as giving H. M. Government power to determine the composition of the Zionist Executive, the constitution of the Zionist Congress, and the Statutes of the Zionist Organisation. The common enemies of Great Britain and of Jewry abroad can hardly fail to fasten on such an interpretation, which is likely to prejudice Zionist work, not only in former enemy countries, but also in the United States. The Zionist Organisation - or, for that matter, any Jewish body capable of securing the adhesion of all Jews who are willing to assist in

the

the establishment of the Jewish national home - will be handicapped in its appeal to Jews in foreign countries, if it can be plausibly represented as the instrument of a particular government.

It is hoped that it will be found possible to delete the words underlined. Should it be thought essential to maintain a restrictive condition which it was not found necessary to insert in earlier drafts, it is submitted that it should be expressed with greater precision and in terms less exposed to misconstruction, as, for example

> "so long as its constitution secures free access and equal influence to all Jews willing to assist, etc., and so long as it accepts this Mandate as the basis of its activities."

In this connection reference may be made to the analogous conditions laid down by Sir Herbert Samuel for the recognition as a representative body of the Jewish Elected Assembly in Palestine.

3. ARTICLE 6.

The Administration is to facilitate Jewish immigration "while ensuring that the rights and position of other sections of the population are not prejudiced." The term "position" is vague. It might be argued that an essential element in the present position of the Arabs in Palestine is the fact that they are in a majority and that immigration

should

should only be facilitated in so far as their numerical superiority is not threatened. It is submitted that a preferable form of words would be

"the civil and religious rights and the economic position of other sections of the population".

4. ARTICLE 16.

The use of the term "missionary" is regretted. While it is fully recognised that complete religious equality must be ensured, it is, it is submitted, not essential that missionaries should be singled out for special protection. The fact that such protection is extended to missionaries in express terms is deeply wounding to Jewish sentiment. It is submitted that the same result could be as effectively attained by the substitution for this Article of the terms of Article 15 of the draft of June 10th, 1920, which reads as follows:-

"Religious and eleemosynary bodies of all faiths will be allowed, subject to local laws, to erect such buildings and to acquire and hold such property as may be necessary for the conduct of their religious, educational and eleemosynary work.

Representatives or members of such bodies, who are nationals of members of the League of Nations, shall be allowed freely to travel and reside

reside, with a view to carrying on their religious or eleemosynary work, and to maintain their schools and institutions, subject only to the requirements of public order, and there shall be no discrimination against such schools and institutions as compared with other establishments providing similar standards of education, it being understood that such schools and institutions shall not have the right to be assisted from public funds.

Nevertheless, the Administration of Palestine shall have the right to exercise such control as may be necessary for the maintenance of public order and good government, and to take all measures required for such control".

5. ARTICLE 22.

The former drafts (e.g. those of June, 1920, Article 19 and August, 1920, Article 23) provided as follows:-

"English, Hebrew, and Arabic shall be the official languages of Palestine, and shall be employed on, inter alia, the stamps and money of Palestine".

The final version apparently contemplates the possible use of English only on stamps and money and merely provides that, as between Arabic and Hebrew, neither is to be employed without the other.

It is submitted that the earlier provisions are preferable and can involve no practical inconvenience. The present version clearly

places

places Hebrew (as also Arabic) on a lower footing than English - an arrangement which is open to misconstruction abroad - and fails to secure for Hebrew that complete equality which the fundamental principles of the Mandate imply.

6. ARTICLE 27.

It will be observed that among the terms of the Mandate, the execution of which is to be provided for by the Council of the League of Nations in the event of the termination of the Mandate, those relating to the Jewish national home are not mentioned. This omission, though doubtless explicable in itself, is exposed to misinterpretation. It is therefore suggested that to Articles 13 and 14 should at least be added Article 3.

Zionist Organisation,
77, Great Russell Street,
W.C.1.

March 7th, 1931.

19. N.

PARAPAHRASE TELEGRAM from Mr.Churchill to the Colonial Office.

(Received 4.45 p.m. 21st March 1921)

No.YZ 86

You will have gathered from private teleggrams I am contemplating establishment of local administrations in Kurdistan and Trans-Jordania under authority of respective High Commissioners on somewhat different lines from those to be established in Mesopotamia and Palestine. It has been questioned here whether or not these proposals will necessitate any special provisions being made in respective mandates. For example in Article 1 of Mesopotamia Mandate framing of an organic law is provided for and throughout mandate local authority is thence forward referred to as Mesopotamian Government. As regards Palestine, Articles 6 and 22 appear to present legal difficulties as if my proposals are accepted certain of their provisions are inapplicable to Trans-Jordania. Two High Commissioners with whom I have discussed question agree that it would be preferable in mandates themselves to make no reference at all to Kurdistan or Trans-Jordania. If it is absolutely necessary from legal point of view that slight inconsistences in our treatment of these areas should be authorised they consider it would be better to specify areas affected without referring in detail to proposed difference in treatment. Please let me know without delay after consultation with legal advisers of Colonial Office and Foreign Office (1) whether any modificationin terms of mandates inconsidered indispensable; (2) whether it would be possible to add to each mandate a general clause leaving it to discretion of mandatory to interpret mandate in accordance with local conditions in specified areas.

CHURCHILL.

19.P.

No. E 3720/37/88

Foreign Office

S.W.1.

March 30th 1921.

Sir,

With reference to your letter No. 12975 of the 22nd instant, I am directed by Earl Curzon of Kedleston to transmit herewith copies of letters from Sir Maurice Hankey and the Air Ministry with reference to certain changes in the wording of the Mandates for Palestine and Mesopotamia.

2. If Colonel Amery approves the insertion of the word "civil" before the word "aircraft" in articles 11 and 18 respectively of the Mandates for Mesopotamia and Palestine, Sir C. Hurst will be instructed to endeavour to effect this alteration in addition to the alteration with regard to the use of the term "merchant vessels" in the same articles which has already been approved.

I am, etc.

(Sgd.) Lancelot Oliphant.

The Under Secretary of State

Colonial Office.

Reference No. 38/K/8.

(E 3720/37/88)

The Secretary to the Cabinet presents his compliments to the Under Secretary of State for Foreign Affairs and begs to transmit herewith a copy of a letter from the Air Ministry with regard to the Mandate for Mesopotamia and Palestine.

It will be observed that in certain Articles of each of these mandates, the Air Council recommend that the word "civil" should be inserted before "aircraft".

Sir Maurice Hankey would be glad to know whether any objection is seen to the proposed insertion, if any opportunity for making the alteration presents itself.

Offices of the Cabinet

2, Whitehall Gardens

S.W.1.

March 24th 1921.

S.14409 (S.4)

Air Ministry
Kingsway
London W.C.2.
March 18th 1921.

Sir,

I am commanded by the Air Council to state that they have received from the Admiralty a copy of a letter, reference M.50949 which was addressed to you by that Department on the 7th instant with regard to the draft Mandates for Syria and the Lebanon and for Mesopotamia and Palestine.

For reasons similar to those stated in the Admiralty letter, the Council desire to recommend that in Article 11 of the Mandate for Mesopotamia and Article 18 of that for Palestine, the word "civil" should be inserted before "aircraft". It is presumed that a similar course will probably be desired by the French Government with regard to the Mandate for Syria and the Lebanon.

I am, etc.

(Sgd.) C.R. Brigstocke.

The Secretary,
Offices of the Cabinet
2 Whitehall Gardens
S.W.1.

19.Q

15367/1921

Downing Street,

5th April, 1921.

Sir,

I am directed to acknowledge the receipt of your letter E 3720/37/88 of March 30th regarding the proposed insertion of the word "civil" before "aircraft" in articles 11 and 18 of the draft mandates for Mesopotamia and Palestine respectively.

This Department concur in the proposal and have so informed the Cabinet Office.

A copy of this letter is being sent to the Admiralty, War Office and Air Ministry.

I am, etc.

(Sgd.) J.E. Shuckburgh.

The Under Secretary of State
Foreign Office.

DOWNING STREET,

4th March, 1921.

19.R.

Sir,

I am directed by Mr.Secretary Churchill to refer to War Office letter (No.121/L of N/69 (M.1.2.)) of the 15th February to the Foreign Office on the subject of the wording of Articles 17 and 2 of the Palestine and Mesopotamia mandates respectively,relating to the use of locally raised forces outside the mandated areas.

2. Mr. Churchill does not agree that the amended version of these articles as proposed by the Foreign Office, transfers the supreme controlling authority from the Mandatory Power to the local authority, though it undoubtedly leaves to the latter discretion to initiate proposals for the employment of local troops beyond the frontier. So long as the influence of the mandatory is sufficiently power ful to enable it to ensure the agreement of the local authorities in any policy, it appears preferable that the actual executive responsibility should remain with those authorities. Nothing appears to be gained by adopting a wording which implies that the mandatory reserves to itself the right to compel the local authorities to take executive action in pursuance of a policy with which they are not in agreement. I am accordingly to express the hope that the Army Council will reconsider their objection to the proposed amendments.

I am etc.,

(Sgd) J.E.SHUCKBURGH.

THE SECRETARY,

WAR OFFICE.

C.O.

19.S.

131/L. of N./69. (M.I.2.)

WAR OFFICE,

LONDON, S.W.

2nd April, 1921.

Sir,

I am commanded by the Army Council to acknowledge receipt of Colonial Office Letter(No. 10156/21), dated 4th March, 1921, dealing with the wording of Articles 17 and 2 of the Palestine and Mesopotamian Mandates respectively, and relating to the use of locally raised forces outside the mandated areas.

I am to say that the Council, after further careful consideration, withdraw their objection, as expressed in War Office letter (No. 131/L. of N./69 (M.I.2.) dated 15th February, 1921, to the amended version suggested by the Foreign Office, and would be prepared to accept this amendment.

A copy of this letter is being sent to the Secretary of the Committee of Imperial Defence, and to the Secretary of the Cabinet.

I am etc.,

(Signed) H. J. CREEDY.

THE UNDER SECRETARY OF STATE,

COLONIAL OFFICE,

S.W.1.

19.T.

23Y10
~~10156~~/1921.

DOWNING STREET,

24 May, 1921.

Sir,

I am directed by Mr. Secretary Churchill to transmit herewith to be laid before Earl Curzon of Kedleston copy of a letter which he has caused to be addressed to Sir Maurice Hankey on the subject of the proposed modifications in the draft Mandates for Palestine and Mesopotamia.

Mr. Churchill presumes that these suggestions will be considered by the Cabinet, but, in view of the fact that the terms of the Mesopotamian Mandate are understood to have been drafted in close consultation with the French Government, he suggests for Lord Curzon's consideration that the proposed modifications should

THE UNDER SECRETARY OF STATE,
FOREIGN OFFICE.

should at some stage be communicated to that Government, in order to avoid the appearance of independent action on the part of His Majesty's Government, which might result in opposition being offered by the French representative on the Council of the League of Nations.

I am, Sir,

Your most obedient Servant,

(Signed) J. E. SHUCKBURGH

121-04N 19.

18A

1st April 1921.

Dear Wilson,

We are sending you today a copy of a letter addressed to the Colonial Office, in which the Army Council agree to the Foreign Office amended wording of Article 17 of the Palestine Mandate and Article 2 of the Mesopotamian Mandate. This letter supplies the answer to your 38/K/1, dated 16th March; our original views on the subject being dead, you will not require us to write a paper on the subject.

I am returning herewith the note that was enclosed with your private letter of the 22nd March.

Yours sincerely,

C.A.K.

Colonel S.H.Wilson, C.B., C.M.G.,
Committee of Imperial Defence,
2 Whitehall Gardens, S.W.

17A

121/L.of N./69. (M.I.2.)

2ND APRIL, ~~March,~~ 1921.

Sir,

7a

I am commanded by the Army Council to acknowledge receipt of Colonial Office letter No. 10156/21, dated 4th March, 1921, dealing with the wording of Articles 17 and 2 of the Palestine and Mesopotamian Mandates respectively, and relating to the use of locally raised forces outside the mandated areas.

I am to say that the Council, after further careful consideration, withdraw their objection, as expressed in War Office letter No. 121/L. of N./ 69 (M.I.2) dated 15th February, 1921, to the amended version suggested by the Foreign Office, and would be prepared 4a to accept this amendment.

A copy of this letter is being sent to the Secretary of the Committee of Imperial Defence, and to the Secretary of the Cabinet.

I am,

Sir,

Your obedient servant,

(Sd.) H.J. Creedy.

The Under Secretary of State,
Colonial Office,
S.W.1.

16 A

22nd. March, 1921.

Dear Ker,

With reference to my official letter No. 38/K/1 dated the 16th. March to Secretary, War Office, on the question of the wording of Article 17 of the Palestine Mandate and Article 2 of the Mesopotamian Mandate, I enclose herewith a copy of a note on this subject which has been prepared in this Office; unless you have any objection Sir Maurice Hankey proposes to circulate this note to the Cabinet.

Yours sincerely
E.H. Wilson.

Colonel C.A. Ker,
C.M.G., C.B.E., D.S.O.

WAR OFFICE.

S. W.

15A

Any further communication on this subject should be addressed to :—
THE SECRETARY,
OFFICES OF THE CABINET,
2, WHITEHALL GARDENS, S.W. 1,
and the following number quoted.

38/K/1.

OFFICES OF THE CABINET,
2, WHITEHALL GARDENS,
LONDON, S.W. 1.

16th. March, 1921.

Sir,

With reference to your letter No. 121/L.of N./69 (M.I.2.) dated February 15th. 1921, to the Under Secretary of State for Foreign Affairs, and in continuation of my letter No. 38/K/1 dated 12th. March, 1921, I should be much obliged if you could arrange for the preparation in your Department of a paper, for circulation to the Cabinet, on the wording of Article 17 of the Palestine Mandate and Article 2 of the Mesopotamian Mandate and explaining the point of view of the Army Council.

I am, Sir,

Your obedient Servant.

E. H. Wilson.

for Secretary, Cabinet.

The Secretary,
WAR OFFICE.
S. W.

121/Eg/N/69

Communications on this subject should be addressed to—

THE UNDER SECRETARY OF STATE,
COLONIAL OFFICE,
LONDON, S.W.1,

and the following Number quoted: 10156/21

Downing Street,
4 March, 1921.

WAR OFFICE RECEIVED 5 MAR 1921

Sir,

I am directed by Mr. Secretary Churchill to refer to War Office letter No. 121/L of N/69 (M.I.2.) of the 15th February to the Foreign Office on the subject of the wording of Articles 17 and 2 of the Palestine and Mesopotamia mandates respectively, relating to the use of locally raised forces outside the mandated areas.

Mr. Churchill does not agree that the amended version of these Articles, as proposed by the Foreign Office, transfers the supreme controlling authority from the Mandatory Power to the local authority, though it undoubtedly leaves to the latter discretion to initiate proposals for the employment of local troops beyond the frontier. So long as the influence of the Mandatory is sufficiently powerful

to

THE SECRETARY,
WAR OFFICE.

to enable it to ensure the agreement of the local authorities in any policy, it appears preferable that the actual executive responsibility should remain with those authorities. Nothing appears to be gained by adopting a wording which implies that the mandatory reserves to itself the right to compel the local authorities to take executive action in pursuance of a policy with which they are not in agreement. I am accordingly to express the hope that the Army Council will reconsider their objection to the proposed amendments.

I am,

Sir,

Your most obedient Servant,

H Shuckburgh

4 A

121/L.of M./69 (M.I.2).

15th February. 1921.

Sir,

I am commanded by the Army Council to acknowledge receipt of Foreign Office letter No. E.110/57/88 dated 27th January, 1921 forwarding a copy of a letter dated 20th January, 1921 to Sir Maurice Hankey and dealing with the wording of Articles 17 and 2 of the Palestine and Mesopotamian Mandates respectively.

I am to say that the Army Council are of opinion that the amended version of the above articles, as suggested by the Foreign Office, materially alters the sense of the articles, in so much that it transfers the Supreme Controlling Authority from the Mandatory Power to the Local Administration, to the possible detriment of the Mandatory Power.

The Army Council feeling that it is inexpedient for His Majesty's Government to tie their hands as regards the possible use of local troops outside the Mandated Area; they consider that it is conceivable that some great national emergency might arise in the future, in which it would be imperative to employ the local troops outside the Mandated Area, and they further think that in admitting the powers of the local administration to withhold its consent to such employment, they have already gone far enough.

The Army Council strongly recommend, therefore, that the wording of Article 17, Palestine Mandate, and Article 2, Mesopotamian Mandate remain unaltered; and hope that Earl Curzon of Kedleston will feel disposed to support this view.

I am,
Sir,
Your obedient servant,

(Sd.) H. Creedy

The Under Secretary of State,
Foreign Office,
Whitehall, S.W.1.

3A.

P R E C I S.

1. In I.D, Mr. Rowell of the Canadian Delegation to the Assembly of the League of Nation at Geneva, raises objection to the use of local forces outside the mandated territories, as contemplated in the draft mandates, as being contrary to both the letter and the spirit of the Covenant. He was of opinion that the enemies of Great Britain in the United States would say that the territory was being administered, not in the interests of the resident population but in the interest of the mandatory; and that Great Britain's greatest asset must be her good name, which is of vastly more value to her than both Mesopotamia and Palestine.

2. The Secretary of the Committee of Imperial Defence, at Mr. Balfour's request, told Mr. Rowell why the Cabinet had decided to include this provision in the mandates. He also pointed out the absurdity of the local Government being allowed to lend its local forces for use outside its territory to any Power so long as it was not the Mandatory Power, and for this reason it was not unreasonable to allow the Mandatory Power to use the local forces outside the mandated territory. Mr. Rowell was not convinced.

3. The Foreign Office points out that France may vote against us on this point, because she has not included a similar provision in the Syrian Mandate, although she had the chance of doing so.

4. The Foreign Office suggest that instead of laying down that the mandatory "will not use the local forces for other than the above purposes, except with the consent of the local Government", the

might be amended
the article ~~should be suppressed~~ in the sense that the local Government "may only use its forces for other than the above purposes with the consent of the mandatory". They invite an opinion from the Army Council.

NOTES.

(a) At 2.A is a note containing the extracts under consideration, from the three mandates.

(b) In Minute 69 in 0152/5640, dated 1/12/20, dealing with this subject, the D.M.I. stated:-

"The main thing we want to make sure of is that the French are not placed in a position to make more use of the man power of mandated territories in Syria and Asia Minor than we can of man power in Palestine and Mesopotamia. They have naturally more indigenous material than we have. If the purposes for which man power can be made available is dependent on the veto of the local native government it is quite possible that at some future date we may suffer from a refusal of the local Palestinian or Mesopotamian Government to allow us to use such man power while the French are left free by their local Syrian Government. Even if the French were not given a free hand by the local government it is probable that they would have fewer scruples than we should, in disregarding the wishes of such government".

"For this reason I think we want to ensure against a refusal by the Mesopotamian Government of permission to employ local man power outside the mandated territories."

In this view the C.I.G.S. concurred.

(c) It is suggested that we reply to the Foreign Office saying:-

(i) That the Army Council would prefer the clause to remain as it stands.

(ii)

(ii) That, failing that, they would agree to the amendment suggested by the Foreign Office.

(iii) That the main point is that the French must not be allowed to add anything to the clause in the Syrian Mandate, which would give them ~~the~~ any ability to use the man power of Syria and the Lebanon, which we do not equally possess in Palestine and Mesopotamia.

M.I.2,

1st February 1921.

The paragraphs in the Palestine, Mesopotamian and Syrian Mandates referring to the use of local forces.

PALESTINE Mandate (Article 17). See 1.E.

The Administration of Palestine may organise on a voluntary basis the forces necessary for the preservation of peace and order, and also for the defence of the country, subject, however, to the supervision of the Mandatory, who shall not use them for purposes other than those specified save with the consent of the Administration of Palestine, and except for such purposes, no military, naval or air forces shall be raised or maintainsd by the Administration of Palestine.

Nothing in this Article shall preclude the Administration of Palestine from contributing to the cost of the maintenance of forces maintained by the Mandatory in Palestine.

The Mandatory shall be entitled at all time to use the roads, railways and ports of Palestine for the movement of troops and the carriage of fuel and supplies.

MESOPOTAMIAN Mandate (Article 2). See 1.F.

The Mandatory may maintain troops in the territories under his Mandate for the defence of these territories. Until the entry into force of the Organic Law and the re-establishment of public security, he may organise and employ local forces necessary for the maintenance of order and for the defence of these territories. Such forces may only be recruited from the inhabitants of the territories under the Mandate.

The said local forces shall thereafter be responsible to the local authorities, subject always to the control to be exercised over these forces by the Mandatory, who shall not employ them for other than the above-mentioned purposes, except with the consent of the Mesopotamian Government.

Nothing in this Article shall preclude the Mesopotamian Government from contributing to the cost of the maintenance of any forces maintained by the Mandatory in Mesopotamia.

The Mandatory shall be entitled at all times to use the roads, railways, and ports of Mesopotamia for the movement of troops and the carriage of fuel and supplies.

A translation of Article 2 of SYRIAN Mandate. See 1.C.

The Mandatory may maintain troops in the territories under his Mandate for the defence of these territories. Until the entry into force of the Organic Law and the re-establishment of public security, he may organise local forces necessary for the defence of these territories and employ them, and may employ them for this defence as well as for the maintenance of order. Such forces may only be recruited from the inhabitants of the territories under the Mandate.

The said local forces shall thenceforward be responsible to the local authorities, subject to the control to be exercised over these forces by the Mandatory, who shall not employ them for other than the above-mentioned purposes. Nothing in this article shall prevent Syria and the Lebanon from contributing to the cost of maintenance by the Mandatory in their territory.

The Mandatory shall be entitled at all times to use the ports, railways and means of communication of Syria and the Lebanon for the movement of his troops, and the carriage of all material, supplies and fuel.